

FILED

DEC 19 2017

U.S. DISTRICT COURT
ELKINS WV 26241

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

MATTHEW DEAN SMITH,

Defendant.

Criminal No. 3:17-CR-88

**Violations: 18 U.S.C. § 842(i)
18 U.S.C. § 844(a)
18 U.S.C. § 922(g)(3)
18 U.S.C. § 924(a)(2)
26 U.S.C. § 5861(d)
26 U.S.C. § 5871**

SUPERSEDING INDICTMENT

The Grand Jury charges that:

COUNT ONE

(Possession of Unregistered Firearm)

On or about October 14, 2017, in Berkeley County, in the Northern District of West Virginia, defendant **MATTHEW DEAN SMITH**, knowingly received and possessed a firearm, a black and silver silencer, not registered to him in the National Firearms Registration and Transfer Record, in violation of Title 26, United States Code, Sections 5841, 5861(d), and 5871.

COUNT TWO

(Unlawful Possession of Firearms)

On or about October 14, 2017, in Berkeley County, in the Northern District of West Virginia, defendant **MATTHEW DEAN SMITH**, who is an unlawful user of and addicted to a controlled substance, that is heroin and methamphetamine, did knowingly possess in and affecting commerce firearms, that is a black and silver silencer; a Sig Sauer, P229 .9mm pistol; and an Anderson Manufacturing, Model AM-15, multi-caliber (.223 caliber) rifle; in violation of Title 18, United States Code, Sections 922(g)(3) and 924(a)(2).

COUNT THREE

(Unlawful Possession of Explosives)

On or about December 1, 2017, in Morgan County, in the Northern District of West Virginia, defendant **MATTHEW DEAN SMITH**, who is an unlawful user of and addicted to a controlled substance, that is heroin and methamphetamine, did knowingly receive and possess explosives and explosive materials, which had been shipped and transported in and affecting interstate commerce from; in violation of Title 18, United States Code, Sections 842(i) and 844(a).

FORFEITURE ALLEGATION

National Firearms Act

1. Pursuant to Title 26, United States Code, Section 5872, and Title 26, United States Code, Section 2461(c), the government will seek the forfeiture of property as part of the sentence imposed in this case; that is, the forfeiture of any firearm involved in any violation of Title 26, United States Code, Sections 5841, 5861(d), and 5871, including a black and silver firearm silencer.

2. Pursuant to Title 28, United States Code, Section 2461(c), the government will seek forfeiture of substitute property up to the value of property subject to direct forfeiture that is not available for forfeiture on account of any act or omission contemplated by Title 21, United States Code, Section 853(p)(1), which property includes a black and silver firearm silencer.

Gun Control Act

Pursuant to Title 28, United States Code, Section 2461(c), and Title 18, United States Code, Section 924(d)(1), the government will seek the forfeiture of any firearm and any ammunition involved in or used in any knowing violation of Title 18, United States Code, Sections 922(g)(3) and 924(a)(2), including a black and silver firearm silencer; a Sig Sauer, P229 pistol, 9 caliber; fourteen (14) rounds assorted 9 caliber ammunition; Anderson Manufacturing AM-15 machine gun,

multi-caliber; nineteen (19) rounds assorted ammunition, .223 caliber; Ithaca 37 Featherlight Shotgun; 3640 rounds assorted ammunition; Brno flare gun, 26.5 mm caliber; 5939 rounds assorted ammunition; ten (10) rounds assorted ammunition; DNA-15 receiver/frame, ZZ caliber; Spike's Tactical ST15 receiver/frame, multi-caliber; Anderson Manufacturing AM-15 receiver/frame, multi-caliber; Ruger AR-556 receiver/frame, ZZ caliber; thirteen (13) rounds assorted 50 caliber ammunition; Spike's Tactical ST15 receiver/frame, multi-caliber; 800 federal ammunition components; E3 Arms Omega-15 machine gun, multi-caliber; 1200 rounds assorted 50 caliber ammunition; AMT Hardballer pistol, 45 caliber; 220 rounds assorted ammunition; Mossberg 500 shotgun, 12 caliber; AWC Systems Tech Optima Silencer; six (6) rounds Remington ammunition, 12 ga caliber; 1566 assorted ammunition components; and forty-nine (49) 26.5mm signal flares.

Explosive Materials

Pursuant to Title 18, United States Code, Section 844(c)(1), and Title 28, United States Code, Section 2461(c), the government will seek the forfeiture of property as part of the sentence imposed in this case; that is, the forfeiture of any explosives and explosive materials involved in any violation of Title 18, United States Code, Sections 842(i) and 844(a) including forty-nine (49) 26.5 mm signal

flares; five (5) containers of Pyrodex black powder; and forty (40) pounds ANFO contained in a fifty (50) pound bag.

A True Bill,

/s/
Grand Jury Foreperson

/s/
WILLIAM J. POWELL
UNITED STATES ATTORNEY

Lara K. Ombs-Botteicher
Assistant United States Attorney